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BEFORE THE
BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

Case No. VN-2009-1617

NICHOLAS GERARD RAGUSA
7767 Longs Peak Drive
Riverbank, CA 92509

Applicant for Vocational Nurse License

Respondent.

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Vocational Nursing and Psychiatric Technicians as the final Decision in the above-entitled matter.

This Decision shall become effective on April 20, 2011.

IT IS SO ORDERED this 21st day of March, 2011.



John P. Vertido, L.V.N.
President

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 NICOLE R. COOK
Deputy Attorney General
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5 San Diego, CA 92101
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6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the Statement of Issues
13 Against:

14 **NICHOLAS GERARD RAGUSA**
15 **7767 Longs Peak Drive**
Riverside, CA 92509

16 **Applicant**

17 Respondent.

Case No. VN-2009-1617

OAH No. 2011010226

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) is the Executive Officer of the
23 Board of Vocational Nursing and Psychiatric Technicians. She brought this action solely in her
24 official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the
25 State of California, by Nicole R. Cook, Deputy Attorney General.

26 2. Respondent Nicholas Gerard Ragusa (Respondent) is representing himself in this
27 proceeding and has chosen not to exercise his right to be represented by counsel.
28

3. On or about August 10, 2009, Respondent filed an application dated June 4, 2009, with the Board of Vocational Nursing and Psychiatric Technicians to obtain a Vocational Nurse License.

JURISDICTION

4. Statement of Issues No. VN-2009-1617 was filed before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on January 7, 2011. A copy of Statement of Issues No. VN-2009-1617 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. VN-2009-1617. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. VN-2009-1617.

9. Respondent agrees that his Vocational Nurse License is subject to denial and he agrees to be bound by the Board of Vocational Nursing and Psychiatric Technicians (Board)'s probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Vocational Nursing and Psychiatric Technicians. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Vocational Nursing and Psychiatric Technicians may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that upon completion of all requirements, a Vocational Nurse License will be issued to Respondent and immediately revoked. The revocation will be stayed and the Respondent placed on three (3) years probation on the following terms and conditions.

1. **OBEY ALL LAWS.** Respondent shall obey all federal, state and local laws, including all statutes and regulations governing the license. Respondent shall submit, in writing, a full and detailed account of any and all violations of the law, including alleged violations, to the Board within five (5) days of occurrence.

To ensure compliance with this condition, Respondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within thirty (30) days of the effective date of the decision, unless the Board determines that fingerprints were previously submitted by the Respondent to the Board.

Respondent shall also submit to the Board a recent 2" x 2" photograph of himself within thirty (30) days of the effective date of the decision.

If Respondent is under a criminal court order, including probation or parole, and the order is violated, it shall be deemed a violation of these probation conditions.

2. **COMPLIANCE WITH PROBATION PROGRAM.** Respondent shall fully comply with the conditions of probation established by the Board and shall cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Probation Program.

Upon successful completion of probation, the Respondent's license will be fully restored.

3. **SUBMIT WRITTEN REPORTS.** Respondent shall submit or cause to be submitted, under penalty of perjury, any written reports, declarations and verification of actions as required by the Board or its representatives. These reports or declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

1 In the first report, Respondent shall provide a list of all states and territories where he has
2 ever been licensed as a vocational/practical nurse, psychiatric technician, or registered nurse.
3 Respondent shall provide information regarding the status of each license and any change in
4 license status during the period of probation. Respondent shall inform the Board if he applies for
5 or obtains a new nursing or psychiatric technician license during the period of probation.

6 Respondent shall provide a copy of the Board's decision to the regulatory agency in every
7 state and territory in which he has applied for or holds a vocational/practical nurse, psychiatric
8 technician and/or registered nurse license.

9 **4. NOTIFICATION OF ADDRESS AND TELEPHONE NUMBER CHANGE(S).**

10 Respondent shall notify the Board, in writing, within five (5) days of any change in address or
11 telephone number(s).

12 Respondent's failure to claim mail sent by the Board may be deemed a violation of these
13 probation conditions.

14 **5. NOTIFICATION OF RESIDENCY OR PRACTICE OUTSIDE OF STATE.**

15 Respondent shall notify the Board, in writing, within five (5) days, if he leaves California to
16 reside or practice in another state. Periods of residency or practice outside of California shall not
17 apply toward a reduction of this probation time period. If Respondent resides or practices outside
18 of California, the period of probation shall be automatically extended for the same time period he
19 resides or practices outside of California. The Respondent shall provide written notice to the
20 Board within five (5) days of any change of residency or practice.

21 Respondent shall notify the Board, in writing, within five (5) days, upon his return to
22 California.

23 **6. MEETINGS WITH BOARD REPRESENTATIVE(S).** Respondent shall appear
24 in person at meetings as directed by the Board or its designated representatives.

25 **7. NOTIFICATION TO EMPLOYER(S).** When currently employed or applying for
26 employment in any capacity in any health care profession, Respondent shall notify his employer
27 of the probationary status of Respondent's license. This notification to the Respondent's current
28 health care employer shall occur no later than the effective date of the Decision. The Respondent

1 shall notify any prospective health care employer of his probationary status with the Board prior
2 to accepting such employment. At a minimum, this notification shall be accomplished by
3 providing the employer or prospective employer with a copy of the Board's Statement of Issues
4 and Disciplinary Decision.

5 The Health Care Profession includes, but is not limited to: Licensed Vocational Nurse,
6 Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical
7 Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical
8 health care positions.

9 Respondent shall cause each health care employer to submit to the Board all performance
10 evaluations and any other employment related reports as required by the Board. Respondent shall
11 notify the Board, in writing, of any difficulty in securing employer reports within five (5) days of
12 such an event.

13 Respondent shall notify the Board, in writing, within five (5) days of any change in
14 employment status. Respondent shall notify the Board, in writing, if he is terminated or
15 separated, regardless of cause, from any nursing or health care related employment with a full
16 explanation of the circumstances surrounding the termination or separation.

17 **8. EMPLOYMENT REQUIREMENTS AND LIMITATIONS.** Respondent shall
18 work in his licensed capacity in the state of California. This practice shall consist of no less than
19 six (6) continuous months and of no less than twenty (20) hours per week.

20 Respondent shall not work for a nurses' registry or in any private duty position, a temporary
21 nurse placement agency, as a faculty member in an accredited or approved school of nursing, or
22 as an instructor in a Board approved continuing education course except as approved, in writing,
23 by the Board. Respondent shall work only on a regularly assigned, identified and predetermined
24 work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

25 **9. SUPERVISION REQUIREMENTS.** Before commencing or continuing
26 employment in any health care profession, Respondent shall obtain approval from the Board of
27 the supervision provided to the Respondent while employed.

Respondent shall not function as a charge nurse (i.e., work in any healthcare setting as the person who oversees or directs licensed vocational nurses, psychiatric technicians, certified nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during the period of probation except as approved, in writing, by the Board.

10. **COMPLETION OF EDUCATIONAL COURSE(S).** Respondent, at his own expense, shall enroll and successfully complete a course(s) substantially related to the violation(s) no later than the end of the first year of probation.

The coursework shall be in addition to that required for license renewal. The Board shall notify the Respondent of the course content and number of contact hours required. Within thirty (30) days of the Board's written notification of assigned coursework, Respondent shall submit a written plan to comply with this requirement. The Board shall approve such plan prior to enrollment in any course of study.

Upon successful completion of the course, Respondent shall submit "original" completion certificates to the Board within thirty (30) days of course completion.

11. **MAINTENANCE OF VALID LICENSE.** Respondent shall, at all times, maintain an active current license with the Board including any period of suspension.

If an initial license must be issued (Statement of Issues) or a license is reinstated, probation shall not commence until a license is issued by the Board. Respondent must complete the licensure process within two (2) years from the effective date of the Board's decision.

Should Respondent's license expire, by operation of law or otherwise, upon renewal or reinstatement, Respondent's license shall be subject to any and all conditions of this probation not previously satisfied.

12. **LICENSE SURRENDER.** During probation, if Respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the conditions of probation, Respondent may surrender his license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request without further hearing. Upon formal acceptance of the tendered license, Respondent will no longer be subject to the conditions of probation.

1 Surrender of Respondent's license shall be considered a disciplinary action and shall
2 become a part of Respondent's license history with the Board. A licensee who surrenders his
3 license may petition the Board for reinstatement no sooner than the following minimum periods
4 from the effective date of the disciplinary decision for the surrender:

5 Three (3) years for reinstatement of a license surrendered for any reason other than a mental
6 or physical illness; or One (1) year for a license surrendered for a mental or physical illness.

7 **13. VIOLATION OF PROBATION.** If Respondent violates the conditions of his
8 probation, the Board, after giving the Respondent notice and an opportunity to be heard, may set
9 aside the stay order and impose the stayed discipline (denial/revocation/suspension) of the
10 Respondent's license. If during probation, an accusation or petition to revoke probation has been
11 filed against the Respondent's license or the Attorney General's Office has been requested to
12 prepare an accusation or petition to revoke probation against the Respondent's license, the
13 probationary period shall automatically be extended and shall not expire until the accusation or
14 petition has been acted upon by the Board.

15 **14. CHEMICAL DEPENDENCY SUPPORT & RECOVERY GROUPS.** Within
16 five (5) days of the effective date of the Decision, Respondent shall begin attendance at a
17 chemical dependency support group (e.g. Alcoholics Anonymous, Narcotics Anonymous, Nurse
18 Support Group). Verified documentation of attendance shall be submitted by the Respondent
19 with each written report as required by the Board. Respondent shall continue attendance in such a
20 group for the duration of probation.

21 **15. ABSTAIN FROM CONTROLLED SUBSTANCES.** Respondent shall completely
22 abstain from the personal use or possession of controlled substances, as defined in the California
23 Uniform Controlled Substances Act, and dangerous drugs as defined in Section 4021 and 4022 of
24 the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for
25 a bona fide illness.

26 **16. ABSTAIN FROM USE OF ALCOHOL.** Respondent shall completely abstain
27 from the use of alcoholic beverages and products containing alcohol.
28

1 17. **SUBMIT BIOLOGICAL FLUID SAMPLES.** Respondent shall immediately
2 submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee.
3 There will be no confidentiality in test results; positive test results will be immediately reported to
4 the Board and the Respondent's current employer.

5 **ACCEPTANCE**

6 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
7 stipulation and the effect it will have on my Vocational Nurse License. I enter into this
8 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
9 to be bound by the Decision and Order of the Board of Vocational Nursing and Psychiatric
10 Technicians.

11
12 DATED: _____

13 _____
14 NICHOLAS GERARD RAGUSA
15 Respondent

16 **ENDORSEMENT**

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Board of Vocational Nursing and Psychiatric Technicians of
19 the Department of Consumer Affairs.

20 Dated: FEBRUARY 8, 2011

21 Respectfully submitted,

22 KAMALA D. HARRIS
23 Attorney General of California
24 LINDA K. SCHNEIDER
25 Supervising Deputy Attorney General

26 

27 NICOLE R. COOK
28 Deputy Attorney General
Attorneys for Complainant

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9 to be bound by the Decision and Order of the Board of Vocational Nursing and Psychiatric
10 Technicians.

11
12 DATED

2/8/11



NICHOLAS GERARD RAGUSA
Respondent

14
15 ENDORSEMENT

16 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
17 submitted for consideration by the Board of Vocational Nursing and Psychiatric Technicians of
18 the Department of Consumer Affairs.

19
20 Dated

2/8/11

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General

NICOLE R. COOK
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. VN-2009-1617

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 LINDA K. SCHNEIDER
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6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
13 Against:

Case No. VN-2009-1617

14 **NICHOLAS GERARD RAGUSA**
15 **7767 Longs Peak Drive**
Riverside, CA 92509

STATEMENT OF ISSUES

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Statement of Issues
21 solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and
22 Psychiatric Technicians, Department of Consumer Affairs.

23 2. On or about August 10, 2009, the Board of Vocational Nursing and Psychiatric
24 Technicians, Department of Consumer Affairs received an application for a Vocational Nurse
25 License from Nicholas Gerard Ragusa (Respondent). On or about June 4, 2009, Nicholas Gerard
26 Ragusa certified under penalty of perjury to the truthfulness of all statements, answers, and
27 representations in the application. The Board denied the application on July 27, 2010.

28 ///

JURISDICTION

3. This Statement of Issues is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2866 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

1 (2) Done any act involving dishonesty, fraud, or deceit with the intent to
2 substantially benefit himself or herself or another, or substantially injure another.

3 (3) Done any act that if done by a licentiate of the business or profession in
4 question, would be grounds for suspension or revocation of license.

5 The board may deny a license pursuant to this subdivision only if the crime or
6 act is substantially related to the qualifications, functions, or duties of the business or
7 profession for which application is made.

8 (b) Notwithstanding any other provision of this code, no person shall be denied
9 a license solely on the basis that he or she has been convicted of a felony if he or she
10 has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with
11 Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
12 convicted of a misdemeanor if he or she has met all applicable requirements of the
13 criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
14 person when considering the denial of a license under subdivision (a) of Section 482.

15 (c) A board may deny a license regulated by this code on the ground that the
16 applicant knowingly made a false statement of fact required to be revealed in the
17 application for the license.

18 7. Section 482 of the Code states:

19 Each board under the provisions of this code shall develop criteria to evaluate
20 the rehabilitation of a person when:

21 (a) Considering the denial of a license by the board under Section 480; or

22 (b) Considering suspension or revocation of a license under Section 490.

23 Each board shall take into account all competent evidence of rehabilitation
24 furnished by the applicant or licensee.

25 8. Section 493 of the Code states:

26 Notwithstanding any other provision of law, in a proceeding conducted by a
27 board within the department pursuant to law to deny an application for a license or to
28 suspend or revoke a license or otherwise take disciplinary action against a person who
holds a license, upon the ground that the applicant or the licensee has been convicted
of a crime substantially related to the qualifications, functions, and duties of the
licensee in question, the record of conviction of the crime shall be conclusive
evidence of the fact that the conviction occurred, but only of that fact, and the board
may inquire into the circumstances surrounding the commission of the crime in order
to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority,"
and "registration."

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1 9. Section 2878.6 of the Code states:

2 A plea or verdict of guilty or a conviction following a plea of nolo contendere
3 made to a charge substantially related to the qualifications, functions and duties of a
4 licensed vocational nurse is deemed to be a conviction within the meaning of this
5 article. The board may order the license suspended or revoked, or may decline to
6 issue a license, when the time for appeal has elapsed, or the judgment of conviction
7 has been affirmed on appeal or when an order granting probation is made suspending
8 the imposition of sentence, irrespective of a subsequent order under the provisions of
9 Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty
10 and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing
11 the accusation, information or indictment.

12 REGULATORY PROVISIONS

13 10. California Code of Regulations, title 16, section 2521, states:

14 For the purposes of denial, suspension, or revocation of a license pursuant to
15 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
16 crime or act shall be considered to be substantially related to the qualifications,
17 functions or duties of a licensed vocational nurse if to a substantial degree it
18 evidences present or potential unfitness of a licensed vocational nurse to perform the
19 functions authorized by his license in a manner consistent with the public health,
20 safety, or welfare. Such crimes or acts shall include but not be limited to those
21 involving the following:

22 (a) Procuring a license by fraud, misrepresentation, or mistake.

23 (b) A conviction of practicing medicine without a license in violation of
24 Chapter 5 of Division 2 of the Business and Professions Code.

25 (c) Violating or attempting to violate, directly or indirectly, or assisting in or
26 abetting the violation of, or conspiring to violate any provision or term of Chapter
27 6.5, Division 2 of the Business and Professions Code.

28 (d) Aiding or assisting, or agreeing to aid or assist any person or persons,
whether a licensed physician or not, in the performance of or arranging for a violation
of any of the provisions of Article 13, Chapter 5, Division 2 of the Business and
Professions Code.

(e) Conviction of a crime involving fiscal dishonesty.

(f) Any crime or act involving the sale, gift, administration, or furnishing of
"narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of the
Business and Professions Code.

11. California Code of Regulations, title 16, section 2522, states:

When considering a) the denial of a license under Section 480 of the Business
and Professions Code, b) the suspension or revocation of a license on the ground
that a licensee has been convicted of a crime, or c) a petition for reinstatement of a
license under Section 2787.7 of the Business and Professions Code, the Board in

1 evaluating the rehabilitation of an individual and his or her present eligibility for a
2 license, will consider the following criteria:

3 (1) Nature and severity of the act(s), offense(s), or crime(s) under
4 consideration.

5 (2) Actual or potential harm to the public.

6 (3) Actual or potential harm to any patient.

7 (4) Overall disciplinary record.

8 (5) Overall criminal actions taken by any federal, state or local agency or
9 court.

10 (6) Prior warnings on record or prior remediation.

11 (7) Number and/or variety of current violations.

12 (8) Mitigation evidence.

13 (9) In case of a criminal conviction, compliance with terms of sentence
14 and/or court-ordered probation.

15 (10) Time passed since the act(s) or offense(s) occurred.

16 (11) If applicable, evidence of proceedings to dismiss a conviction pursuant
17 to Penal Code section 1203.4.

18 (12) Cooperation with the Board and other law enforcement or regulatory
19 agencies.

20 (13) Other rehabilitation evidence.

21 FIRST CAUSE FOR DENIAL OF APPLICATION

22 **(December 26, 2002 Criminal Conviction for Resisting Arrest/Obstruction on June 9, 2001)**

23 12. Respondent's application is subject to denial under sections 480, subdivision (a)(1),
24 and 2866 of the Code in that he was convicted of a crime that is substantially related to the
25 qualifications, duties, and functions of a licensed vocational nurse. The circumstances are as
26 follows:

27 a. On or about December 26, 2002, in a criminal proceeding entitled *People of the*
28 *State of California v. Nicholas Gerard Ragusa*, in Orange County Superior Court, case number
01SM04267, Respondent was convicted on his plea of guilty to violating Penal Code section 148,
subdivision (a), resisting, obstructing or delaying a peace officer, a misdemeanor.

1 b. As a result of the conviction, on or about December 26, 2002, after two failures
2 to appear on arrest warrants, Respondent was sentenced to 18 days in the Orange County Jail
3 (with credit for 18 days served), informal probation for three years, and payment of \$100 in
4 restitution. Respondent was further ordered not to consume alcohol until he is 21 years of age,
5 and not while driving, and standard probation terms including completion of an Orange Coast
6 College Alcohol Awareness Class.

7 c. The facts that led to the conviction are that on or about June 9, 2001,
8 Respondent was charged with underage drinking and resisting arrest/interfering with a peace
9 officer discharging his duties.

10 **SECOND CAUSE FOR DENIAL OF APPLICATION**

11 **(April 23, 2003 Criminal Conviction for Burglary on September 14, 2001)**

12 13. Respondent's application is subject to denial under sections 480, subdivisions (a)(1)
13 and (a)(2), and 2866 of the Code in that he was convicted of a crime that is substantially related to
14 the qualifications, duties, and functions of a licensed vocational nurse. The circumstances are as
15 follows:

16 a. On or about April 23, 2003, in a criminal proceeding entitled *People of the*
17 *State of California v. Nicholas Gerard Ragusa*, in Riverside County Superior Court, case number
18 RIM413972, Respondent was convicted on his plea of guilty to violating Penal Code section 459,
19 burglary, reduced to a misdemeanor as part of his plea.

20 b. As a result of the conviction, on or about April 23, 2003, after failure to appear,
21 Respondent was sentenced to 30 days in the Riverside County Jail. Respondent was given credit
22 for 20 days served, plus 10 days pursuant to Penal Code section 4019.

23 c. The facts that led to the conviction are that on or about the afternoon of
24 September 14, 2001, the Riverside County Sheriff's Office responded to the home of
25 Respondent's mother who called to report that her son had forged one of her unused checks. The
26 deputy questioned Respondent who admitted he had found the check in the bottom of a drawer in
27 the spare bedroom of his parent's house. He wrote the check payable to himself in the amount of
28 \$200 and forged his mother's signature. Respondent took the check to a Riverside business and

1 tried to cash it. The business contacted Respondent's mother to confirm the validity of the check
2 and she told the business that she never wrote the check to anyone. Respondent was arrested and
3 booked for forgery, burglary, and petty theft.

4 THIRD CAUSE FOR DENIAL OF APPLICATION

5 (April 23, 2003 Criminal Conviction for Auto Theft on April 1, 2003)

6 14. Respondent's application is subject to denial under sections 480, subdivisions (a)(1)
7 and (a)(2), and 2866 of the Code in that he was convicted of a crime that is substantially related to
8 the qualifications, duties, and functions of a licensed vocational nurse. The circumstances are as
9 follows:

10 a. On or about April 23, 2003, in a criminal proceeding entitled *People of the*
11 *State of California v. Nicholas Gerard Ragusa*, in Riverside County Superior Court, case number
12 RIF109396, Respondent was convicted on his plea of guilty to violating Vehicle Code section
13 10851, subdivision (a), theft and unlawful driving or taking of a vehicle, reduced to a
14 misdemeanor as part of his plea.

15 b. As a result of the conviction, on or about April 23, 2003, Respondent was
16 committed to the custody of the Riverside County Sheriff's Office for a period of 365 days (with
17 credit for 30 days), sentenced to summary probation for 36 months, and required to pay \$210 in
18 fees and fines.

19 c. The facts that led to the conviction are that on or about the early morning of
20 April 1, 2003, Respondent's parents contacted the Riverside County Sheriff's Office to report that
21 their son had taken their van without permission. They reported this had happened multiple times
22 in the past and they warned Respondent that they would report the van as stolen if he took it
23 again. The parents reported that Respondent had been causing a lot of problems in the household
24 and had stolen property from them on previous occasions. At approximately 0820 the same
25 morning, a second deputy was dispatched to Respondent's parent's home reference a possible
26 disturbance. Upon arrival, the deputy observed the van parked in front of the residence.
27 Respondent had been arguing with his parents because they would not let him enter their home.
28 The parents stated they desired prosecution for taking the van without permission. The deputy

1 found Respondent walking along a sidewalk. Upon making contact, the deputy noticed that
2 Respondent appeared to be under the influence of a controlled substance; he had rapid speech, he
3 was grinding his jaws, he had a high resting pulse rate, a white colored paste on his tongue, and
4 his lips were dry. Respondent told the deputy he took his parent's van; he never asked their
5 permission because he knew they would say "no." Respondent was arrested for vehicle theft,
6 possession of stolen property, and being under the influence of a controlled substance.

7 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

8 **(Unprofessional Conduct - Possession of Methamphetamine & Paraphernalia,**
9 **Under the Influence of Methamphetamine on July 20, 2004)**

10 15. Respondent's application is subject to denial under section 480, subdivision (a)(3) of
11 the Code in that he committed acts which, if done by a licensee, would be grounds for discipline.
12 The circumstances are as follows:

13 a. On or about July 23, 2004, in a criminal proceeding entitled *People of the State*
14 *of California v. Nicholas Gerard Ragusa*, in Orange County Superior Court, case number
15 04CF2204, Respondent pled guilty to violating Health and Safety Code sections 11377,
16 subdivision (a), possession of a methamphetamine (a felony); section 11364, possession of
17 controlled substance paraphernalia; and section 11550, subdivision (a), under the influence of
18 methamphetamine, both misdemeanors.

19 b. As a result of the plea, on or about July 23, 2004, Respondent was placed on
20 three years formal probation and ordered to complete a drug treatment program pursuant to Penal
21 Code section 1210. At a hearing on or about December 27, 2005, the court found that
22 Respondent successfully completed drug treatment and all charges were dismissed and the terms
23 of probation were vacated. Paragraph 5 of the Proposition 36 Tahl Addendum acknowledged and
24 signed by Respondent on July 23, 2004, required that even if the charges are dismissed after
25 completing a drug treatment program, he must still disclose his arrest and conviction in response
26 to any direct question contained in any questionnaire or application for licensure by any state or
27 local agency.

28 ///

1 c. The circumstances are that on or about the afternoon of July 20, 2004, patrol
2 officers with the Orange Police Department conducted a traffic stop of a vehicle in which
3 Respondent was a passenger. The driver was subject to a Fourth Amendment Waiver so the
4 officers had both occupants exit the vehicle. As one officer was putting Respondent in a safe
5 posture for a body search (feet apart and hands behind his back), the officer noticed a small blue
6 ziplock baggie on the ground at the base of Respondent's foot. The officer showed the baggie to
7 Respondent who admitted it was methamphetamine and that it belonged to him. Respondent told
8 the officer that he had a methamphetamine pipe in the right front passenger's seat. Respondent
9 was arrested and transported to the Orange Police Department substation. The substance in the
10 baggie tested positive for amphetamine. Respondent admitted he smoked methamphetamine
11 earlier in the day and that he had been smoking methamphetamine for approximately three years.
12 Respondent's resting pulse rate was 130 beats per minute, his skin was sweaty and clammy, he
13 had a thick, off-white residue caked on his tongue, he had scabs and prick marks on his face, dry,
14 cracked lips, he was fidgety, and his pupils were dilated.

15 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

16 **(Knowingly Making a False Statement Required to be Revealed on License Application)**

17 16. Respondent's application is subject to denial under section 480, subdivision (c) in that
18 on or about June 4, 2009, Respondent signed an Application for Vocational Nurse Licensure.
19 The signature block states:

20 15. PLEASE READ CAREFULLY BEFORE SIGNING. – I hereby certify
21 under penalty of perjury under the laws of the State of California that the foregoing,
22 including any attachments, is true and correct. False statements included in this
application can result in licensure denial.

23 17. In the Record of Conviction, signed by Respondent on June 4, 2009 under penalty of
24 perjury, Respondent failed to reveal his April 23, 2003, criminal conviction for violating Penal
25 Code section 459, burglary, as detailed in paragraph 13, above.

26 18. In the Record of Conviction, signed by Respondent on June 4, 2009, under penalty of
27 perjury, Respondent failed to reveal that he pled guilty to violating Health and Safety Code
28 sections 11377, subdivision (a), possession of a methamphetamine; section 11364, possession of

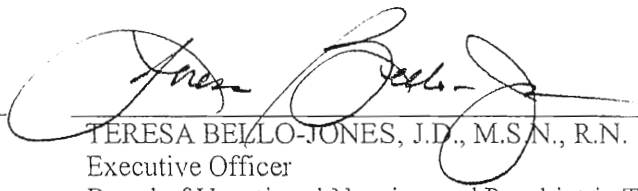
1 controlled substance paraphernalia; and section 11550, subdivision (a), under the influence of
2 methamphetamine, and that the judgment was deferred pursuant to Penal Code section 1210, as
3 detailed in paragraph 15, above. Respondent was required to disclose his arrest and conviction in
4 response to the Application for Vocational Nurse Licensure as part of his Proposition 36 plea
5 agreement acknowledged and signed by Respondent on July 23, 2004.

6 **PRAYER**

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
8 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
9 issue a decision:

- 10 1. Denying the application of Nicholas Gerard Ragusa for a Vocational Nurse License;
11 2. Taking such other and further action as deemed necessary and proper.

12
13 DATED: December 23, 2010


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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